IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.MC.No. 2328 of 2007()

ST.758/2005 of JUDL. MAGISTRATE OF FIRST CLASS-III, KOCHI

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PETITIONER:

CYRIAC THOMAS,
VELANKUNNEL HOUSE, EDAMARUKU P.O.,KOTTAYAM DIST.

BY ADV. SRI.BENHUR JOSEPH MANAYANI

RESPONDENTS:

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1. M/S. PENISULAR MULTI COMEX SERVICES LTD.
   REGISTERED OFFICE AT S.T.REDDIAR & SONS BUILDING,
   ERNAKULAM.

2. THE STATE OF KERALA,
   REPRESENTED BY ITS PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2328 of 2007

Dated this the 20th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. He had appeared before the learned Magistrate. But when the matter stood posted for 313 examination, he started not appearing before the court from November, 2006. He finds a warrant of arrest issued by the learned Magistrate chasing him. The petitioner, in these circumstances, has come to this Court seeking directions under Section 482 Cr.P.C.

2. The petitioner submits that he is innocent. His absence was not wilful. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-